Restriction Requirement.

In the December 23, 1999 Office Action the Examiner required restriction to one of the following groups under 35 U.S.C. §121:

Group I: Claims 1-18, drawn to a method for estimating length of survival of a cancer patient by measuring YKL-40;

Group II: Claims 19-37, 40-42, drawn to a method of treating cancer with YKL-40 antibody;

Group III: Claims 38-39, 47-62, drawn to a method of screening recurrence of cancer; and

Group IV: Claims 43-46, drawn to a method of detecting a bacterial infection by detecting YKL-40 levels.

In response to this restriction requirement, Applicants provisionally elect Group I, claims 1-18, with traverse.

Applicants submit that restriction between Groups I, III, and IV is unnecessary. According to MPEP §803, the Examiner should examine all claims in an application, **even though they are directed to distinct inventions**, unless to do so would create a **serious burden**. In the instant case, the claims of Groups I, III, and IV are all drawn to assays that involve measuring the level of YKL-40. A search for YKL-40 assays, is expected to identify prior art, if it exists, relevant to all of these assays. Thus, a search for art relevant to Groups I, III, and IV, entails no greater burden than a search for art relevant to Group I alone. Accordingly, Examination of Groups I, III, and IV together entails no serious burden and the restriction between these groups should be withdrawn.

Similarly, Group III is directed to methods of treating cancer using YKL-40 antibodies. Again, a search for assays involving the detection of YKL-40 are expected to identify references describing the use of such antibodies. A reference, if it exists, pertaining to the use of YKL-40 antibodies as in the management or treatment of cancer is likely to be identified in such a search. Thus a search for prior art relevant to Group II, entails no greater burden than a search for prior art relevant to Group I or to Groups I, III, and IV together. Accordingly, Examination of Groups I, II, III, and IV together entails no serious burden and the

restriction between these groups should be withdrawn. Applicants therefore respectfully request that the above identified restriction requirements be withdrawn.

Sequence Listing.

This amendment is provided in response to the Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures. Applicants request entry of this amendment in adherence with 37 C.F.R. §§ 1.821 to 1.825. This amendment is accompanied by a floppy disk containing the sequences, SEQ ID NOs:1-4, in computer readable form, and a paper copy of the sequence information which has been printed from the floppy disk.

The information contained in the computer readable disk was prepared through the use of the software program "PatentIn" and is identical to that of the paper copy. This amendment contains no new matter. The amendments to the specification are made to substitute the formal sequence listing provided herewith for the sequence listing as filed.

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 248-5500.

Dated: February 23, 2000.

Respectfully submitted,

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Atty. Docket: 2500.121US0

encl: 1) Petition for one month extension of time.
2) Copy the Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures
3) Sequence listing paper copy and computer readable form.